

## FORM 26. Docketing Statement

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 2013-1639

IN RE KEVIN W. LANG &amp; JAMES W. DIBBLE

v.

## DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent Kevin W. Lang & James w. Dibble

Party is (select one)



Appellant/Petitioner



Cross-Appellant



Appellee/Respondent



Intervenor

Tribunal appealed from and Case No. USPTO, Patent Trial & Appeal Board (2012-003950)Date of Judgment/Order 5/29/2013 Type of Case Patent AppealRelief sought on appeal Reversal of USPTO Patent Trial & Appeal Board Decision (2012-003950)

Relief awarded below (if damages, specify) \_\_\_\_\_

Briefly describe the judgment/order appealed from \_\_\_\_\_

USPTO Patent Trial & Appeal Board's affirmation of the Examiner's decision rejecting claims 1-10 of U.S. patent application serial no. 12/856,501.

**FORM 26. Docketing Statement (continued)**

Nature of judgment (select one)

☐ Final Judgment, 28 USC 1295☐ Rule 54(b)☐ Interlocutory Order (specify type) \_\_\_\_\_☒ Other (explain; *see* Fed. Cir. R. 28(a)(5)) \_\_\_\_\_U.S. Patent and Trademark Office, Patent Trial and Appeal Board, Decision on Appeal  
\_\_\_\_\_

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued \_\_\_\_\_

N/A  
  
\_\_\_\_\_

Brief statement of the issues to be raised on appeal \_\_\_\_\_

Whether the Patent Trial and Appeal Board erred in affirming the USPTO Examiner's decision to reject claims 1-10 of U.S. patent application serial no. 12/856,501.  
  
\_\_\_\_\_

Have there been discussions with other parties relating to settlement of this case?

☐ Yes ☒ No

If "yes," when were the last such discussions?

☐ Before the case was filed below?☐ During the pendency of the case below?☐ Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated?

☐ Yes ☐ NoIf they were mediated, by whom? \_\_\_\_\_  
  
\_\_\_\_\_

**FORM 26. Docketing Statement (continued)**

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

If you answered no, explain why not \_\_\_\_\_

The appeal is ex parte, from the USPTO Patent Trial & Appeal Board.

Provide any other information relevant to the inclusion of this case in the court's mediation program. \_\_\_\_\_

I certify that I filed an original and one copy of this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this 9<sup>th</sup> day of October, 2013

by: electronic filing with CM/ECF and Electronic mail  
(manner of service)

|                          |                               |
|--------------------------|-------------------------------|
| Richard C. Pettus        | /s/ Richard C. Pettus         |
| _____<br>Name of Counsel | _____<br>Signature of Counsel |

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